

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

SANDRA DAROCHA, individually and)
on behalf of all others similarly situated) Case No.: 2:12-cv-05235
)
Plaintiff,)
)
v.)
)
THE CITY OF LINDEN,)
AMERICAN TRAFFIC SOLUTIONS, INC.,)
WWW.VIOLATIONINFO.COM and)
UNIDENTIFIED ENTITIES A THOROUGH Z)
)
Defendants.)

**AMERICAN TRAFFIC SOLUTIONS, INC.
AND WWW.VIOLATIONINFO.COM'S ANSWER AND
AFFIRMATIVE DEFENSES TO PLAINTIFF, SANDRA DAROCHA'S COMPLAINT**

Defendants, American Traffic Solutions, Inc. ("ATS") and WWW.VIOLATIONINFO.COM ("Violationinfo"), for their Answer and Defenses to the Complaint of Plaintiff, Sandra Darocha ("Plaintiff") responds as follows:

I. NATURE OF THE CASE

1. Admitted only that Plaintiff is alleging multiple counts against ATS and Violationinfo. Denied as to all other averments contained in this paragraph.
2. Admitted only that ATS entered into a contract with the City of Linden, the terms of which speak for themselves. Denied as to all other averments contained in this paragraph.
3. Denied as phrased. By way of further answer, the contract that ATS and the City of Linden entered into speaks for itself.
4. Denied as phrased.
5. Denied.

6. Denied.

7. Admitted only that Plaintiff has alleged claims of unjust enrichment and declaratory relief. Denied as to all other averments contained in this paragraph.

8. Admitted only that Plaintiff seeks injunctive and declaratory relief. Denied as to all other averments contained in this paragraph.

II. VENUE

9. Admitted only that the City of Linden is located in Union County. Denied as to all other averments contained in this paragraph.

10. Denied.

11. Denied.

III. PARTIES

12. ATS and Violationinfo lack information sufficient to form a belief as to the truth of the averments within this paragraph and therefore deny the same.

13. ATS and Violationinfo lack information sufficient to form a belief as to the truth of the averments within this paragraph and therefore deny the same.

14. ATS and Violationinfo lack information sufficient to form a belief as to the truth of the averments within this paragraph and therefore deny the same.

15. ATS and Violationinfo lack information sufficient to form a belief as to the truth of the averments within this paragraph and therefore deny the same.

16. Admitted.

17. Admitted only that ATS was incorporated in Kansas. The primary place of business of ATS is located at 1330 West Southern Avenue, Tempe, Arizona 85260. Denied as to all other averments contained in this paragraph.

18. Admitted only that Violationinfo is a website that ATS owns and operates.

Denied as to all other averments contained in this paragraph.

IV. FACTUAL BACKGROUND

A. The Institution of Red Light Running Systems

19. Denied as phrased.

20. Denied as phrased. The referenced website speaks for itself.

21. Admitted only that New Jersey Assembly Bill 4314 was previously signed into law. The Assembly Bill speaks for itself.

22. Denied as phrased.

23. Denied as phrased. The referenced statute speaks for itself.

24. Denied as phrased. The referenced statute speaks for itself.

25. Denied as phrased. The referenced statute speaks for itself.

26. Denied. The referenced statute speaks for itself.

B. Pohatcong's Red Light Camera Program

27. Admitted only that the City of Linden participates in the red light camera pilot program. ATS and Violationinfo lack information sufficient to form a belief as to the truth of the remaining averments contained in this paragraph and therefore deny the same.

28. Admitted only that ATS entered into a contract with the City of Linden, the terms of which speak for themselves. Denied as to all other averments contained in this paragraph.

29. Denied as phrased.

30. Admitted only that ATS entered into a contract with the City of Linden, the terms of which speak for themselves. Denied as to all other averments contained in this paragraph.

31. Admitted only that the City of Linden participates in the red light camera pilot program. ATS and Violationinfo lack information sufficient to form a belief as to the truth of the remaining averments contained in this paragraph and therefore deny the same.

32. Admitted only that the City of Linden participates in the red light camera pilot program. ATS and Violationinfo lack information sufficient to form a belief as to the truth of the remaining averments contained in this paragraph and therefore deny the same. By way of further answer the referenced website speaks for itself.

33. ATS and Violationinfo lack information sufficient to form a belief as to the truth of the averments within this paragraph and therefore deny the same.

34. Admitted only that the NJ DOT previously suspended certain townships from the pilot red light camera program. The remaining averments are denied as phrased.

35. Denied as conclusions of law. To the extent those legal conclusions can be construed as allegations of fact, denied.

36. ATS and Violationinfo lack information sufficient to form a belief as to the truth of the averments within this paragraph and therefore deny the same.

37. ATS and Violationinfo lack information sufficient to form a belief as to the truth of the averments within this paragraph and therefore deny the same.

38. Denied. The referenced statute speaks for itself. By way of further answer, ATS and Violationinfo are not parties required to act under the referenced statute.

39. Denied. The referenced statute speaks for itself. By way of further answer, ATS and Violationinfo are not parties required to act under the referenced statute.

40. Denied. The referenced statute speaks for itself. By way of further answer, ATS and Violationinfo are not parties required to act under the referenced statute.

41. Denied. By way of further answer, the red light camera program has been reactivated.

42. Denied as conclusions of law. To the extent those legal conclusions can be construed as allegations of fact, denied.

43. Denied.

V. CLASS ACTION ALLEGATIONS

44. Admitted only that Plaintiff is seeking to pursue a class action. Denied that class certification in this matter is appropriate, that there is an ascertainable class, that ATS or Violationinfo have engaged in any wrongful conduct or that the purported class has experienced any harm. The remaining averments are denied.

45. Admitted only that the Complaint seeks money damages. Denied that class certification in this matter is appropriate, that there is an ascertainable class, that ATS or Violationinfo have engaged in any wrongful conduct or that the purported class has experienced any harm. The remaining averments are denied.

46. Admitted only that the Complaint seeks injunctive and declaratory relief. Denied that class certification in this matter is appropriate, that there is an ascertainable class, that ATS or Violationinfo have engaged in any wrongful conduct or that the purported class has experienced any harm. The remaining averments are denied.

47. Denied

48. Denied

49. Denied

50. Denied (including sub-paragraphs).

51. Denied.

52. Denied.

53. Denied.

**FIRST COUNT
UNJUST ENRICHMENT**

54. ATS and Violationinfo repeat and incorporate by reference herein their answers set forth in the preceding paragraphs as though fully set forth herein.

55. Denied.

56. Denied.

57. Denied.

58. Denied.

59. Denied.

60. Denied.

61. Denied.

62. Denied.

63. Denied.

64. Denied.

65. Denied.

**SECOND COUNT
DECLARATORY JUDGMENT**

66. ATS and Violationinfo repeat and incorporate by reference herein their answers set forth in the preceding paragraphs as though fully set forth herein.

67. Denied. The referenced statute speaks for itself. By way of further answer, ATS and Violationinfo are not parties required to act under the referenced statute.

68. Denied. The referenced statute speaks for itself. By way of further answer, ATS and Violationinfo are not parties required to act under the referenced statute.

69. Admitted only that the NJ DOT previously suspended certain townships from the pilot red light camera program. The remaining averments are denied as phrased.

70. Denied.

AFFIRMATIVE DEFENSES

FIRST AFFIRMATIVE DEFENSE

Plaintiff and/or others alleged to be putative class members lack standing to assert the claims stated in the Complaint and to seek the relief requested.

SECOND AFFIRMATIVE DEFENSE

The claims of Plaintiff and/or those alleged to be putative class members are barred by the applicable statute of limitations.

THIRD AFFIRMATIVE DEFENSE

The Complaint fails to state a claim upon which relief can be granted.

FOURTH AFFIRMATIVE DEFENSE

The claims of Plaintiff and/or those alleged to be putative class members are barred by the voluntary payment doctrine.

FIFTH AFFIRMATIVE DEFENSE

The claims of Plaintiff and/or those alleged to be putative class members are barred by the doctrine of avoidable consequences.

SIXTH AFFIRMATIVE DEFENSE

The claims of Plaintiff and/or those alleged to be putative class members are barred by the doctrine of collateral estoppel.

SEVENTH AFFIRMATIVE DEFENSE

The claims of Plaintiff and/or those alleged to be putative class members are barred by the unclean hands doctrine.

EIGHTH AFFIRMATIVE DEFENSE

The claims of Plaintiff and/or those alleged to putative class members are barred by the doctrine of laches.

NINTH AFFIRMATIVE DEFENSE

Plaintiff and/or others alleged to be putative class members waived any right to recover any relief sought in the Complaint by voluntarily making payment after obtaining knowledge of their own underlying infraction(s).

TENTH AFFIRMATIVE DEFENSE

Plaintiff and/or others alleged to be putative class members are equitably estopped from asserting any right to recover any relief sought in the Complaint because they voluntarily made payment after receiving notice of their own underlying infraction(s).

ELEVENTH AFFIRMATIVE DEFENSE

Plaintiff and/or others alleged to be putative class members are barred from recovering against ATS or Violationinfo any relief sought in the Complaint because of lack of privity of contract.

TWELFTH AFFIRMATIVE DEFENSE

Plaintiff and/or others alleged to be putative class members are barred from recovering any relief sought in the Complaint because they have suffered no damages or other actionable harm.

THIRTEENTH AFFIRMATIVE DEFENSE

Awarding Plaintiff and/or others alleged to be putative class members the relief sought in the Complaint would violate ATS and Violatininfo's right to due process under the United States Constitution.

FOURTEENTH AFFIRMATIVE DEFENSE

The claims of Plaintiff and/or those alleged to be putative class members were caused by the fault of another.

FIFTEENTH AFFIRMATIVE DEFENSE

The damages, if any, of Plaintiff and/or those alleged to be putative class members fail because the Plaintiff and/or those alleged to be putative class members assumed the risk of harm by running red lights.

SIXTEENTH AFFIRMATIVE DEFENSE

The claims of Plaintiff and/or those alleged to be putative class members fail because Plaintiff and/or those alleged to be putative class members failed to take reasonable steps to mitigate their alleged damages, if any, and their recovery must be barred or diminished accordingly.

SEVENTEENTH AFFIRMATIVE DEFENSE

The claims of Plaintiff and/or those alleged to be putative class members fail because the claims were proximately caused by the negligence and illegal conduct of Plaintiff and/or those alleged to be putative class members.

EIGHTTEENTH AFFIRMATIVE DEFENSE

The claims of Plaintiff and/or those alleged to be putative class members are barred or limited in whole or in part because ATS and Violationinfo committed no violation of law.

NINETEENTH AFFIRMATIVE DEFENSE

To the extent Plaintiff and/or those alleged to be putative class members admitted responsibility for the violation or were otherwise found responsible and did not appeal that decision, their claims are barred by the doctrine of *res judicata*.

TWENTIETH AFFIRMATIVE DEFENSE

To the extent Plaintiff and/or those alleged to be putative class members did not raise all of their claims pertaining to the underlying infractions in municipal court or through appeal, their claims are barred by their failure to avail themselves of those procedures and/or their failure to exhaust their administrative remedies.

TWENTY FIRST AFFIRMATIVE DEFENSE

The New Jersey Department of Transportation, which was the administrative agency who initiated and administered the red light camera pilot program, expressly approved Linden's Application. At all times, ATS and Violationinfo relied in good faith on the New Jersey Department of Transportation's interpretation of the red light camera pilot program statute (N.J.S.A. 39:4-8.14), including the promulgation and regulation thereof.

RESERVATION OF RIGHTS

ATS and Violationinfo reserve the right to amend and/or supplement this Answer, including, without limitation, to assert additional defenses.

PRAYER FOR RELIEF

WHEREFORE, ATS and Violationinfo respectfully request that this Court deny the relief requested in the Complaint, enter judgment in favor of ATS and Violationinfo and grant ATS and Violationinfo such other and further relief as the Court deems just and proper.

Respectfully submitted,

AMERICAN TRAFFIC SOLUTIONS, INC.
WWW.VIOLATIONINFO.COM

Dated: September 6, 2012

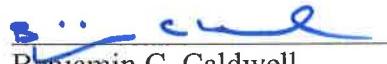
By:


Benjamin C. Caldwell
BURNS & LEVINSON LLP
1 Citizens Plaza, Suite 1100
Providence, RI 02903
Tel: 401-831-8330
Fax: 401-831-8359

Robert D. Friedman, Esq.
(*pro hac vice* motion forthcoming)
David M. Losier, Esq.
(*pro hac vice* motion forthcoming)
BURNS & LEVINSON LLP
125 Summer Street
Boston, MA 02110
Tel: 617-345-3000
Fax: 617-345-3299

CERTIFICATE OF SERVICE

I hereby certify that on September 6, 2012, I electronically filed the foregoing document in the above-entitled matter with the Clerk of the Court using the CM/ECF system. CM/ECF participants will receive notice electronically.



Benjamin C. Caldwell